

2020 Regular Session

SENATE BILL NO. 274

BY SENATOR ALLAIN

REVENUE DEPARTMENT. Establishes reporting requirements for businesses and governmental entities using service providers. (2/3 - CA7s2.1(A)) (1/1/21)

1 AN ACT

2 To enact R.S. 47:114.1, relative to reporting requirements to the Department of Revenue;
3 to require businesses and governmental entities that pay certain service providers to
4 file reports; to provide for the format of the reports; to provide for exceptions; to
5 provide for penalties; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 47:114.1 is hereby enacted to read as follows:

8 **§114.1. Information reports required**

9 **A.(1) Beginning January 1, 2021, any service recipient who makes or is**
10 **required to make a return to the Internal Revenue Service, in accordance with**
11 **Section 6041A(a) of the Internal Revenue Code, relating to payments made to**
12 **a service provider as compensation for services, shall file an annual information**
13 **report with the secretary as provided in this Section.**

14 **(2) For purposes of this Section:**

15 **(a) "Service recipient" means any individual, person, corporation,**
16 **association, or partnership, or agent thereof, doing business in this state,**
17 **deriving trade or business income from sources within this state, or in any**

1 manner is engaged in the course of a trade or business subject to the laws of this
2 state. "Service recipient" also includes any agency or political subdivision of the
3 state.

4 (b) "Service provider" means a natural person who is not an employee
5 of the service recipient who received compensation or executes a contract for
6 services performed for that service recipient within the state.

7 (3) Each service recipient shall report the following information to the
8 secretary for each service provider to whom the service recipient has made
9 payments that in the aggregate equal or exceed six hundred dollars in any year,
10 or with whom the service provider has entered into a contract or contracts
11 providing for payments that in the aggregate equal or exceed six hundred
12 dollars in any year:

13 (a) The service recipient's name, business name, and address.

14 (b) The service recipient's federal employer identification number,
15 Department of Revenue account number, or other identifying number as
16 required by the secretary.

17 (c) The service provider's full name, address, social security number, or
18 Department of Revenue account number, and total amount paid to the service
19 provider during the year.

20 B.(1) Annual reports required pursuant to this Section shall be filed with
21 the secretary on or before the first day of March of each year for the preceding
22 calendar year in a form prescribed by the secretary.

23 (2) Upon receipt of a request from a service recipient on forms
24 prescribed by the secretary, the secretary may grant a reasonable extension of
25 time, not exceeding thirty days, for filing the annual report.

26 (3) The determination of the number of service providers shall be
27 determined annually and the annual reporting requirement shall not apply to
28 service recipients with ten or fewer service providers in a single calendar year.

29 (4) The annual reporting requirement may be waived by the secretary

1 for a service recipient if a hardship is shown by the service recipient in a written
2 request for a waiver.

3 C.(1) A late filing penalty shall be imposed for the delinquent submission
4 of, or failure to, submit the annual report in the form prescribed by the
5 secretary.

6 (2) For each failure to fully comply with the annual report filing, unless
7 the failure is due to good cause shown, the secretary may assess a penalty of one
8 hundred dollars for each service provider for whom the required information
9 is not reported or is incomplete. The total penalty imposed pursuant to this
10 Subsection shall not exceed seven thousand five hundred dollars per calendar
11 year.

12 (3) If the failure to timely submit the annual report is attributable, not
13 to the negligence of the taxpayer, but to other causes set forth in written form
14 and considered reasonable by the secretary, the secretary may abate all or any
15 part of the specific penalty provided for the failure.

16 D. The secretary shall prescribe the forms and format to be used for
17 compliance with the provisions of this Section. The secretary may also prescribe
18 the types of media and record layout to be used in the submission of the reports
19 and receipts consistent with the Internal Revenue Code requirements. The
20 secretary may promulgate rules and regulations to prescribe any alternative
21 technological, mathematical, or data-driven methods for filing, signing, and
22 submitting any report, statement, or other document required under this
23 Section.

24 Section 2. This Act shall become effective on January 1, 2021.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Curry Lann.

Proposed law requires service recipients to report payments made to service providers if the service recipient is required by federal law to withhold for federal income tax purposes.

Proposed law defines a service provider as any person including agencies and political subdivisions of the state, doing business in this state, deriving trade or business income from sources within this state, or is engaged in any manner in the course of a trade or business subject to the laws of this state.

Proposed law defines service recipient as a natural person who is not an employee of the service recipient, and who received compensation or executes a contract for services performed for that service recipient within the state.

Proposed law requires the following information to be submitted annually by service recipients for each service provider to whom they paid \$600 or more in any year:

- (1) The full name of the service provider.
- (2) The address of the service provider.
- (3) The social security number, Department of Revenue account number of the service provider, or other identifying number as required by the secretary.
- (4) The total dollar amount paid by the service recipient during the fiscal year.

Proposed law provides that the annual report is due on March 1st each year, but the annual reporting requirement may be waived by the secretary if the service provider can show that compliance would cause a hardship.

Proposed law requires the determination of the number of service providers to be determined annually and prohibits the annual reporting requirement from applying to service recipients with ten or fewer service providers in a single calendar year.

Proposed law provides for a penalty of \$100 for each failure to report the required information without good cause for any service provider on the annual report and provides a maximum penalty of no more than \$7,500 per year. Additionally, all or part of the penalty may be abated if the taxpayer can show in writing that the failure to comply was not due to the negligence of the taxpayer, but for a reasonable cause.

Proposed law authorizes the secretary to prescribe the format of the required reports and further authorizes the secretary to promulgate rules to prescribe alternative methods for filing, signing, or submitting any report or other document required by proposed law.

Effective January 1, 2021.

(Adds R.S. 47:114.1)